

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3177
Administrative Law Judge Division
August 24, 2006

RESOLUTION

RESOLUTION ALJ 176-3177. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

The Categories

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The

applicability of many of the changes it requires depends upon the category assigned to the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

Mixed or Unclear Category Proceedings

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

Next Steps

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

Conclusion

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

IT IS ORDERED that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on _____, the following Commissioners voting favorably thereon:

STEVE LARSON
Executive Director

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3177 (8/24/06)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A06-07-011 GARBERVILLE SANITARY DISTRICT, HURLBUTT, PATRICIA, Application for authority to transfer by sale the assets of the Garberville Water Company, Inc., located in Humboldt County from Patricia Hurlbutt to the Garberville Sanitary District.	Ratesetting	Ratesetting	NO
A06-07-012 SAN DIEGO GAS & ELECTRIC COMPANY, for Recovery of Costs related to the California Bark Beetle Infestation Under the Catastrophic Event Memorandum Account (CEMA).	Ratesetting	Ratesetting	NO
A06-07-013 CATALINA CHANNEL EXPRESS, INC. (VCC-52), a California corporation, to increase the baseline rate for its Zone of Rate Freedom authority to the level of its current rates and to establish a new Zone of Rate Freedom for its Vessel Common Carrier service.	Ratesetting	Ratesetting	NO
A06-07-014 AVT GROUP, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A06-07-017 CALIFORNIA WATER SERVICE COMPANY (U60W), for authorization to increase rates charged for water service in its Bakersfield District by \$11,220,000 or 22.81% in fiscal year 2007-2008, by \$1,979,900 or 3.30% in fiscal year 2008-2009, and by \$1,979,900 or 3.17% in fiscal year 2009-2010. (TEND 0206)	Ratesetting	Ratesetting	YES
A06-07-018 CALIFORNIA WATER SERVICE COMPANY (U60W), for authorization to increase rates charged for water service in its Dixon District by \$437,730 or 34.8% in fiscal year 2007-2008, by \$249,500 or 14.7% in fiscal year 2008-2009, and by \$249,500 or 12.8% in fiscal year 2009-2010. (TEND 0306)	Ratesetting	Ratesetting	YES
A06-07-019 CALIFORNIA WATER SERVICE COMPANY (U60W), for authorization to increase rates charged for water service in its King City District by \$890,400 or 57.6% in fiscal year 2007-2008, by \$48,500 or 1.99% in fiscal year 2008-2009, and by \$48,500 or 1.95% in fiscal year 2009-2010. (TEND 0406)	Ratesetting	Ratesetting	YES

PRELIMINARY DETERMINATION SCHEDULE

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A06-07-020 CALIFORNIA WATER SERVICE COMPANY (U60W), for authorization to increase rates charged for water service in its Oroville District by \$1,000,500 or 40.6% in fiscal year 2007-2008, by \$136,500 or 3.9% in fiscal year 2008- 2009, and by \$136,500 or 3.8% in fiscal year 2009-2010. (TEND 0506)	Ratesetting	Ratesetting	YES
A06-07-021 CALIFORNIA WATER SERVICE COMPANY, for authorization to increase rates charged for water service in its Selma District by \$170,000 or 5.9% in fiscal year 2007- 2008, by \$180,000 or 5.9% in fiscal year 2008-2009, and by \$190,600 or 5.9% in fiscal year 2009-2010. (TEND 0606)	Ratesetting	Ratesetting	YES
A06-07-022 CALIFORNIA WATER SERVICE COMPANY (U60W), for authorization to increase rates charged for water service in its South San Francisco District by \$2,672,150 or 25.22% in fiscal year 2007-2008, by \$676,100 or 5.1% in fiscal year 2008-2009, by \$676,100 or 4.9% in fiscal year 2009-2010, and by \$676,100 or 4.6% in fiscal year 2010- 2011. (TEND 0706)	Ratesetting	Ratesetting	YES
A06-07-023 CALIFORNIA WATER SERVICE COMPANY (U60W), for authorization to increase rates charged for water service in its Westlake District by \$2,187,800 or 22.25% in fiscal year 2007-2008, by \$330,400 or 2.75% in fiscal year 2008- 2009, and by \$330,400 or 2.67% in fiscal year 2009-2010. (TEND 0806)	Ratesetting	Ratesetting	YES
A06-07-024 CALIFORNIA WATER SERVICE COMPANY, for authorization to increase rates charged for water service in its Willows District by \$530,700 or 50.17% in fiscal year 2007-2008, by \$201,600 or 12.69% in fiscal year 2008- 2009, and by \$201,600 or 11.26% in fiscal year 2009-2010. (TEND 0906)	Ratesetting	Ratesetting	YES
A06-07-025 TOUCH-TEL USA, LP, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A06-07-026 PACIFIC BELL TELEPHONE COMPANY, dba AT&T CALIFORNIA, for an order Exempting it from the requirements of Public Utilities Code Section 851.	Quasi-legislative	Ratesetting	NO
A06-07-027 PACIFIC GAS AND ELECTRIC COMPANY (U 39 E), for Pre-Approval of Exceptional Case Contracts pursuant to Electric Rules 15.1.3 and 16.G.	Ratesetting	Ratesetting	YES
A06-07-028 SOUTHERN CALIFORNIA GAS COMPANY (U 904 G), or Approval of a Long-Term Gas Transportation Agreement with Taft Production Company.	Ratesetting	Ratesetting	YES
A06-08-001 Southern California Edison Company, Application of Southern California Edison Company (U 338-E) for approval of its forecast 2007 ERRA proceeding revenue requirement, to consolidate all Commission-authorized revenue requirements, and to set unbundled rate components beginning January 1, 2007.	Ratesetting	Ratesetting	YES
A06-08-002 SACRAMENTO TRANSPORTATION SYSTEMS, INC., SFO AIRPORTER, INC., SUPERSHUTTLE INTERNATIONAL, INC., SUPERSHUTTLE OF LOS ANGELES, INC., SUPERSHUTTLE OF ORANGE COUNTY, INC., SUPERSHUTTLE OF SAN FRANCISCO, INC., VEOLIA TRANSPORTATION ON DEMAND, INC., for approval of a transfer of control of passenger stage corporations.	Ratesetting	Ratesetting	NO
A06-08-004 PACIFIC GAS AND ELECTRIC COMPANY (U 39 E), for Review of and Authorization to Recover Unreviewed Transaction Costs associated with the planned Divestiture/Market Valuation of Generation Assets.	Ratesetting	Ratesetting	YES
A06-08-005 CITY OF SANTA MARIA, for Authority to construct an At-Grade Crossing of Battles Road and Airbase Subdivision of Santa Maria Valley Railroad at milepost 1.10 in the City of Santa Maria, County of Santa Barbara.	Ratesetting	Ratesetting	NO

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A06-08-007 CITY OF SAN DIEGO, for Authority to construct a bike path below two elevated NCTD and MTDB rail structures within the City and County of San Diego.	Ratesetting	Ratesetting	NO
A06-08-008 2WAYS EXECUTIVE SHUTTLE, INC., for a Certificate of Public Convenience and Necessity to operate as an on-call Passenger Stage Corporation between various points in Orange County to the following airports: Santa Ana, Los Angeles, Ontario and Long Beach.	Ratesetting	Ratesetting	NO
A06-08-009 ACEVEDO, LAURA P. AND JOSE F., EXECUTIVE LINES, INC., dba LINEAS EXECUTIVAS, Application for the Transfer of the business known as Executive Lines, a husband and wife partnership, including, but not limited to, the Passenger Stage Corporation Certificate No.11128, from Laura P. Acevedo and Jose F. Acevedo, a husband and wife partnership, to Executives Lines, Inc., doing business as Lineas Executivas.	Ratesetting	Ratesetting	NO
A06-08-010 SAN DIEGO GAS & ELECTRIC COMPANY (U902E), for a Certificate of Public Convenience and Necessity for the Sunrise Powerlink Transmission Project. [Ruling of August 9, 2006, consolidates A06-08-010 and A05-12-014.]	Ratesetting	Ratesetting	YES
A06-08-011 PACIFIC GAS AND ELECTRIC COMPANY (U 39 E), for Recovery of Generation Feasibility Study Costs Associated with the Evaluation of Wind-Generated and Other Renewable Electric Power in British Columbia.	Ratesetting	Ratesetting	NO
A06-08-012 CALIFORNIA DEPARTMENT OF TRANSPORTATION, for authorization to construct two new grade separated crossings (per General Order 26-D) and one new at-grade crossing (per General Order 143-B) over one light rail line operated by the San Diego Metropolitan Transit Development Board at the proposed State Route 52/Cuyamaca Street Interchange in the City of Santee, County of San Diego, State of California.	Ratesetting	Ratesetting	NO

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Resolution ALJ 176-3177 (8/24/06)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A06-08-014 AL KHAMRI, ABDULAZIZ, dba BEST WAY SHUTTLE, AWARA, MOHAMED A., dba BEST WAY SHUTTLE, Application for authority to sell and transfer the business known as Best Way Shuttle (PSC-9600) from Mohamed A. Awara to Abdulaziz Al Khamri; and to establish a Zone of Rate Freedom.	Ratesetting	Ratesetting	NO
A06-08-015 SUBURBAN WATER SYSTEMS (U 391 W), for authority to issue, sell and deliver its Series E First Mortgage Bonds not exceeding Ten Million Dollars (\$10,000,000.) Principal Amount.	Ratesetting	Ratesetting	NO
A06-08-016 KULWINDER SINGH AND RAJINDER KAUR, for authority to operate as a Passenger Stage Operations between points in the Counties of Alameda, Santa Clara, San Mateo, Marin, Contra Costa, Solano, San Joaquin, and the City and County of San Francisco, on the one hand, and the following International Airports, on the other hand: Oakland, San Francisco and San Jose.	Ratesetting	Ratesetting	NO
A06-08-017 MAXAMUUD M. JAAMAC, dba 5A SAFAARI EXPRESS SHUTTLE, for authority to operate as an on-call and door-to-door Passenger Stage Corporation between points in the following counties: San Francisco, Alameda, Contra Costa, Santa Clara, Solano, Marin, San Mateo, and the following International Airports: San Francisco, Oakland, and San Jose; and to establish a Zone of Rate Freedom.	Ratesetting	Ratesetting	NO
A06-08-018 USD CLEC, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO